

Response under 37 C.F.R. § 1.111
U.S. Appln. No. 09/855,499
Attorney Docket No.: Q64525

REMARKS

Claims 1-12 are all the claims pending in the application.

The Examiner withdrew the previous rejections. The Examiner, however, found new grounds for rejecting the claims. In particular, claims 1 and 4-10 are rejected under 35 U.S.C. § 102(e) and claims 2, 3, 11, and 12 are rejected under 35 U.S.C. § 103(a).

Prior Art Rejections

Claims 1 and 4-10 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,473,624 to Corbett et al. (hereinafter “Corbett”). Applicant respectfully traverses this rejection in view of the following comments.

To be an “anticipation” rejection under 35 U.S.C. § 102, the reference must teach every element and recitation of the Applicant’s claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the reference must clearly and unequivocally disclose every element and recitation of the claimed invention. MPEP § 2131.

Independent claim 1 recites a unique combination of features including:

a reference transmission power for said adjustment is signaled to each of said base stations together with an adjustment period, and

wherein each of said base stations periodically adjusts its transmission power to said reference transmission power, at said adjustment period.

By way of an example, the parameters which are signaled to a base station include a reference power and an adjustment period. The adjustment period is such that a base station periodically

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adjusts its transmission power to the reference transmission power based on this signaled adjustment period. In other words, the reference transmission power is not changed (*i.e.*, not signaled) at each adjustment period. That is, in the exemplary embodiment, there is no need to signal updated values frequently even if the reference transmission power has changed. It is only necessary to perform regular adjustments even if they are performed on the most recently signaled value for the reference transmission power, which does not necessarily correspond to an up-to-date value of the transmission power. It will be appreciated that the foregoing remarks relate to the invention in a general sense, the remarks are not necessarily limitative of any claims and are intended only to help the Examiner better understand the distinguishing aspects of the claim mentioned above.

The Examiner contends that Corbett in col. 7, lines 17 to 18 and col. 8, lines 17 to 18 disclose the unique features of claim 1 mentioned above (*see* page 2 of the Office Action). Applicant respectfully disagrees. Applicant has carefully studied Corbett's discussion of determining a reference power level for a diversity handover, and Applicant respectfully submits that Corbett does not disclose or suggest at least signaling the reference transmission power together with an adjustment interval and adjusting to the reference transmission power at the signaled adjustment interval.

Corbett discloses comparing a power reference to the power transmission level of each base station in a diversity handover to combat base station power drift. Because the power correction depends on the difference between the actual transmit power at the base station and

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the common power level reference, the various transmit powers of the different base stations in the diversity handover converge relatively quickly (*see Abstract and col. 3, lines 6 to 22*).

In particular, Corbett discloses that the radio network controller (RNC) determines the reference power based on one or more of the transmit power levels of the base stations involved in the diversity handover. The reference power level may preferably be recalculated every time a diversity handover measurement report is received. If the diversity handover measurement reports are not received after a certain period of time, then a diversity handover measurement report is ordered from each of the base stations by the RNC. Preferably, just after the reference power level is recalculated, immediately received diversity handover measurement reports may be ignored for a certain minimum time interval to reduce the amount of signaling and adjustments, if desired (Fig. 5; col. 8, lines 5 to 17).

In Corbett, however, the RNC only signals the determined reference power level, and the base station performs correction of its transmission power when the reference power is received. In other words, in Corbett, there is no disclosure or suggestion of signaling an adjustment period. That is, in Corbett, the frequency of the corrections by the base stations are controlled by the frequency of the signaling of the reference power. Once the reference power is signaled, the base station corrects its transmission power based on the received reference power. In short, in Corbett, the commencement of the power correction is determined by the reception of the new reference power. In Corbett, the new reference power is signaled for each power correction.

In sum, Corbett does not disclose or suggest signaling to the base stations a period for the commencement of the power correction intervals, and then the base stations commencing power

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correction periodically, at this signaled period using the signaled reference power. Corbett does not disclose or suggest signaling to the base stations an adjustment period, and then the base stations adjusting their power periodically, at the signaled adjustment period.

The Examiner contends that col. 7, lines 17 to 18 and col. 8, lines 17 to 18 of Corbett disclose the unique features of claim 1 mentioned above. Col. 7, lines 17 to 18 of Corbett recite: “[p]eriodically, the transmit power level of base station BS1 is adjusted down toward the reference power level P_{ref} by a correction value Δ_1 . ” Col. 8, lines 17 to 18 of Corbett recite: “[t]he RNC periodically delivers the newly-determined reference power level to each of the base stations involved in the diversity handover.” Accordingly, Applicant respectfully submits that the above-noted passages of Corbett do not disclose or suggest signaling the adjustment period. In fact, Corbett only discloses that the amount of signaling and adjustments are reduced by “ignoring measurement reports” by the RNC for a certain period of time *i.e.*, by not signaling to the base station (col. 8, lines 13 to 18).

Therefore, “a reference transmission power for said adjustment is signaled to each of said base stations together with an adjustment period, and wherein each of said base stations periodically adjusts its transmission power to said reference transmission power, at said adjustment period,” as set forth in claim 1 is not disclosed by Corbett, which lacks signaling the adjustment period and adjusting the transmission power to the reference transmission power in the signaled adjustment period. For at least these exemplary reasons, Applicant respectfully submits that independent claim is patentably distinguishable from Corbett. Applicant

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respectfully requests the Examiner to withdraw this rejection of claim 1. Claims 4, 5, and 10 are patentable at least by virtue of their dependency on claim 1.

Independent claims 6 and 9 recite features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous reasons, therefore, independent claims 6 and 9 are patentably distinguishable from Corbett. Claims 7 and 8 are patentable at least by virtue of their dependency on claim 6.

Claims 2, 3, 11, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Corbett in view of U.S. Patent No. 6,154,679 to Jalali et al. (hereinafter “Jalali”). Applicant respectfully traverses this rejection in view of the following comments.

Claims 2, 3, 11, and 12 depend on claim 1 or 9. Applicant has already demonstrated that Corbett does not meet all the requirements of independent claims 1 and 9. Jalali is relied upon only for its teaching of predetermined instants and as such fails to cure the deficient teachings of Corbett. Together, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of claims 1 and 9. Since claims 2, 3, 11, and 12 depend on claim 1 or 9, they are patentable at least by virtue of their dependency.

In addition, the Examiner alleges that in col. 11, lines 29 to 31, Jalali discloses “periodically-performed adjustments are performed at predetermined instants” (*see* page 3 of the Office Action). Col. 11, lines 29 to 31 of Jalali recites: “[t]he process begins by the base station

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controller monitoring the reverse link frame error rate...over a period of a predetermined number of frames... the predetermined number of frames is 20...[a]lternate embodiments monitor over other period.” As is clearly visible from the above-quoted passage, Jalali only discloses monitoring the reverse link frame error rate. Jalali does not disclose or suggest performing periodic adjustments at the predetermined instants. Accordingly, Jalali clearly fails to cure the deficient disclosure of Corbett and does not disclose or suggest the unique features of the dependent claims 2, 3, 11, and 12.

In addition, the Examiner alleges that one of ordinary skill in the art would have been motivated to combine the two references “in order to provide based on data transmission” (*see* page 4 of the Office Action). The motivation provided in the Office Action is not understood. Transmission may often be based on data. For example, in Corbett, the transmitted reference power is based on the measurement reports *i.e.*, transmission is based on data. It is Applicant’s position that one of ordinary skill in the art would not have been motivated to combine the references. Moreover, one of ordinary skill in the art would not have combined the references in the manner suggested by the Examiner.

For at least these additional exemplary reasons, Applicant respectfully submits that claims 2, 3, 11, and 12 are patentable over the combined disclosure of Corbett and Jalali.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Nataliya Dvorson
Registration No. 56,616

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

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